

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

JOSEPH EUGENE RECHT,)	
)	
Plaintiff,)	
)	
v.)	No. 04-4315-CV-C-FJG-SSA
)	
JO ANNE B. BARNHART,)	
Commissioner, Social Security)	
Administration)	
)	
Defendant.)	

ORDER

Currently pending before this Court is defendant's Motion to Reverse and Remand (Doc. # 10).

Agency counsel states that after review of the above referenced case, agency counsel requested the Appeals Council to reconsider the Commissioner's decision. Upon review, the Appeals Council determined that remand was appropriate. Agency counsel states that upon remand the ALJ will be directed to proffer the evidence received after the hearing to plaintiff's attorney. The ALJ will also consider every alleged impairment and will articulate plaintiff's exact functional limitations.

Plaintiff's counsel states that instead of remanding this case, the Court should enter an immediate finding of disability because the evidence overwhelmingly supports such a finding. Plaintiff's counsel argues that plaintiff meets a listing for 1.02, Major Dysfunction of a Joint. Agency Counsel states that in order to show that plaintiff's impairment matches a listing, the impairment must meet all specified medical criteria and must at least equal in severity and duration the listed impairment. Agency counsel

states that plaintiff has submitted no medical opinion evidence that his MRI constitutes the “gross anatomical deformity” required under the listing 1.02. Additionally, Agency counsel states that plaintiff’s ability to ambulate and otherwise function is not clear, stating that the ALJ specifically considered plaintiff’s impairments under listing 1.02 and found that they did not meet that listing.

Because there appears to be a difference of opinion as to plaintiff’s medical condition and the severity of his impairments, the Court finds that remand is appropriate. Therefore, the Court hereby **GRANTS** defendant’s Motion for Reversal and Remand and hereby **ORDERS** that the Administrative Law Judge’s decision is **REVERSED** and this case is **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

Date: July 19, 2005
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge